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Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D C 20554

CGB

SEP 15 2003

Control No 0302541/kah-Pol

The Honorable John W Warner
United States Senator
4900 World Trade Center
Norfolk, VA 23510

Dear Senator Warner

Thank you for your letter on behalf of your constituent, Ronald Sendak, regarding the Federal Communications Commission's (Commission) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA).

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive faxes they believe they have neither solicited nor given their permission to receive. Consumers emphasized that the burden of receiving hundreds of unsolicited faxes was not just limited to the cost of paper and toner, but includes the time spent reading and disposing of faxes, the time the machine is printing an advertisement and is not operational for other purposes, and the intrusiveness of faxes transmitted at inconvenient times, including in the middle of the night.

As we explained in the Report and Order, the legislative history of the TCPA indicates that one of Congress' primary concerns was to protect the public from bearing the costs of unwanted advertising. Therefore, Congress determined that companies that wish to fax unsolicited advertisements to customers must obtain their express permission to do so before transmitting any faxes to them. The amended rules require all entities that wish to transmit advertisements to a facsimile machine to obtain permission from the recipient in writing.

The Commission's amended facsimile advertising rules were initially scheduled to go into effect on August 25, 2003. However, based on additional comments received since the adoption of the July Report and Order, the Commission, on its own motion, determined to delay the effective date of some of the amended facsimile rules, including the elimination of the established business relationship exemption, until January 1, 2005. The comments filed after the release of the Report and Order indicate that many organizations may need additional time to secure this written permission from individuals and businesses to which they fax advertisements. Enclosed is a copy of the Commission's Order on Reconsideration, released on August 18, 2003.

We appreciate Mr. Sendak's comments. We have placed a copy of his correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions.

Sincerely,


For K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

Enclosures

JOHN WARNER

ARMED SERVICES CHAIRMAN
ENVIRONMENT AND PUBLIC WORKS
HEALTH, EDUCATION, LABOR AND PENSIONS
SELECT COMMITTEE ON INTELLIGENCE

United States Senate

August 21, 2003

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Dear Ms. Atkinson:

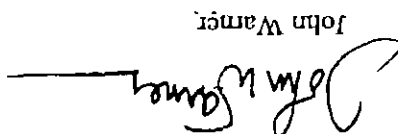
I am writing to bring to your attention the enclosed comments from my constituent, Ronald Sendak, regarding his opposition to new regulations pertaining to business unsolicited faxing practices

I would appreciate your reviewing this correspondence and preparing a reply on the stated concerns. Please send your reply to my state office

The Honorable John Warner
4900 World Trade Center
Norfolk, VA 23510

Any information you can provide which will enable me to respond to these concerns will be helpful. Thank you for your time and courtesy

Sincerely,


John Warner

JW/edm

Enclosure(s)

27 AUG 2003 RCVD

Please reply to the office indicated. Washington [] Richmond [] Roanoke [] Abingdon [] Norfolk []
PRINTED ON RECYCLED PAPER

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August 20, 2003

FAX TO: Sen. John Warner

Dear Senator,

Following a chat with your aide in the Norfolk office, I wanted to register formally with you my strong objection to this stupid FCC ruling that businesses must first gain permission before they can send an unsolicited fax to another business. See the attached clipping from today's Virginian Pilot page D1 "Daily Briefing" column.

This rule was obviously designed by a bureaucrat more concerned about political correctness than about the realities of how a small business like mine has to struggle to communicate with other businesses. It is absolutely ridiculous to hinder further the ability of a small business to communicate with another small business. In fact, ANY business must be able to seek new businesses or make offers of products and services. How can a business get new business or promote existing efforts with this kind of added restraint? We have enough government interference as it is.

If the political correctness must prevail, then it can be more sensibly done by simply adding a line to a fax stating, "If you do not wish to receive future faxes from the sender, just initial here and fax back to us."

Please do what you can on this, John.

Thanks and the very best regards to my very best senator.

Sincerely,



RONALD MAURICE SENDAK

DAILY BRIEFING

ALLIES GAIN ALTHOUGH average price of a satellite TV subscription this fall below that of cable on the East time, according to a new study by D. Poyer & Associates. In 1998, the average monthly cost of satellite TV is up 8 percent to \$3 a month. During the period, the monthly cost of cable surged 41 percent to \$49.62.

INTERFET COUPONS: Teeter will no longer accept coupons printed on the Internet, the latter to respond to a wave of counterfeit

coupons already seen. Feed Lion will continue to accept the coupons, said spokeswoman Tamara McGee. "We've put some safeguards in place to help us recognize legitimate coupons," she said.

MAKING FAXES: Businesses and nonprofit groups opposed to an FCC rule requiring written permission before sending unsolicited faxes say they will use a 16-month delay announced Tuesday to urge

Congress to block the requirement. The new rule, announced in July, was to have been in place next Monday.

COLORADO CUTS: An undetermined number of costumed and other workers in Colonial Williamsburg's Historic Area will be laid off this fall as part of the attraction's cost-cutting measures. With tourism declining and a weak national economy, Colonial Williamsburg

is struggling with revenue shortfalls in ticket sales and a \$35 million budget deficit that is eating into its endowment. About 650 people are employed in the Historic Area.

WORM RETURNS: A new strain of one of the most virulent e-mail viruses ever spread quickly worldwide Tuesday morning, causing fresh annoyance to users worn out by last week's outbreak of the Blaster worm. The new virus, named "Sobig.F" by computer security companies, attacks Windows users via e-mail and file-sharing networks.

